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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,616	01/27/2004	Robert Moser	MOSEB04/02	3379
27988	7590	06/26/2006	EXAMINER	
JOSEPH T. REGARD, LTD PLC PO DRAWER 429 MADISONVILLE, LA 70447-0429			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 06/26/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/766,616	<b>Applicant(s)</b> MOSER ET AL.	
	<b>Examiner</b> Janet M. Wilkens	<b>Art Unit</b> 3637	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 05 April 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) 6 and 7 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 8-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on January 27, 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the bin system embodiment with both the template and skids must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 4, 5, 10, and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. First, it should be noted that the skids and template are never shown in the same embodiment. Second, it is unclear how the skids of the first embodiment can be inserted into the bins of the second embodiment, because of the upper template member and its connection to the upper edges of the walls of the bins.

Claims 1-5, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 1, it is unclear what constitutes a "sufficient distance"; therefore, the limitation including this phrase is indefinite. For claims 2-5, it is unclear which bin is being referred to in the preamble of each claim, since plural bins have been claimed previously. Also for claim 2, it is unclear how the holding area in claim 1 and storage area in claim 2 differ. For claims 4 and 10, it is unclear whether or not the "an upper edge" of the walls is the same upper edge as claimed previously.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Dore (3,327,889). Dore teaches a stackable cargo bin system (Fig. 1) comprising: first and second bins (Fig. 3), each comprising: first and second vertical walls (28,32) having first and second ends joined by first and second end walls (30,34), respectively, to form a bin having an inner width; a floor (16) having upper and lower surfaces joining the walls to form a bin holding area having an upper edge, a length, and a width; and first and second skids (18, 20) engaged to the lower surface of said floor allowing first and second forks from a fork lift to pass there between. Each of the skids having first and second ends and a length there between. The skids having a recess (26) formed at each of the first and second ends, respectively; each recess defining an inner edge formed to rest within the bin holding area of a lower bin when stacked there upon and having a length less the width of the bin holding area and each recess formed to interface with an upper edge of the lower bin when stacked there upon, so as to resist sliding or tilting.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-5 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dore in view of Mander et al (3,643,812). As stated above, Dore teaches the limitations of claims 1, 2 and 8, including bins with walls and a floor. For claims 3-5 and 9-11, Dore fails to teach a template within the bins. Mander teaches a template (Fig. 1) with an upper member having sleeves (29) joined together at their peripheries and a lower member having sleeves (20) joined together at their peripheries. Furthermore, the rack has an outer upper flange/frame (25,15). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Dore by adding a rack(s) within its bin(s), such as the rack taught by Mander (dimensioning the rack/bins so that the lower member rests on the floor of the bin and the upper flange overhangs the top edges of the walls), to provide a removable means in the bin(s) in which to haul tubular articles, when desired.

Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dore in view of Baehr (1,344,252). As stated above, Dore teaches the limitations of claims 1, 2 and 8, including bins with walls and a floor. For claims 3 and 9, Dore fails to teach a template within the bins. Baehr teaches a template (Fig. 1) with an upper member (1) having sleeves (10') joined together at their peripheries and a lower

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member (2) having sleeves (10') joined together at their peripheries. The rack has upper and lower frames (10) and is supported by the floor of a bin/container (9). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the system of Dore by adding a rack(s) within its bin(s), such as the rack taught by Baehr, to provide a removable means in the bin(s) in which to haul tubular articles, when desired.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

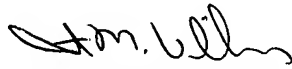
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Wilkins  
June 21, 2006

  
JANET M. WILKENS  
PRIMARY EXAMINER  
Art Unit 3637